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10/060,088	01/30/2002	Gary P. Belford	7170-01627	6425

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EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

9

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/060,088

Applicant(s)

BELFORD, GARY P.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 3/31/03 & 5/19/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The proposed drawing correction filed on March 31, 2003 has been approved.

f 2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "air bubbler" set forth in claim 6, "plurality of water jets" set forth in claim 9, and "air jet" set forth in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. *X ps. 9/1-2 no office action 7/11*

Applicant is required to submit a proposed drawing correction in response to this Office action. Any proposal by applicant for amendment of the drawings to cure defects must consist of two parts:

a) A separate letter to the draftsman in accordance with MPEP 608.02(r); and

b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch with proposed corrections shown in red ink is required in response to this Office action, and may not be deferred.

y 3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37

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CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "fluid" set forth in claims 1 and 15, "air bubbler" set forth in claim 6, "air jet" set forth in claims 8 and 15, the subject matter set forth in claims ~~13 and 14~~, and "fluid jet" set forth in claim 15, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

X 4. Claims ~~6~~, 8 and ~~15~~ are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

X Claim ~~6~~ <sup>8 upward water + air jets?</sup> recites, in part, an "air bubbler". To the extent this "air bubbler" is equivalent to orifice 150 which is fed by duct 130 (pg. 7 lns. 8-9), it is not disclosed how air is fed to such orifice via duct 130 which apparently carries water as disclosed in the sentence bridging pages 6-7. Similarly, claims 8 and 15 recite an "air jet".

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 5, 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacuzzi et al.

The Jacuzzi et al. (Jacuzzi) reference discloses a bath comprising: a vessel 1; an armrest 21; an orifice (receiving 25); and a water jet 25, as claimed.

Applicant argues at pages 8-9 of the response filed March 31, 2003 Jacuzzi fails to disclose that jet assembly 25 directs flow of pressurized fluid to a finger. The examiner can not agree. The jet 25 of Jacuzzi would appear capable of directing a flow of pressurized fluid to a finger in the same sense as applicant's jet 267 does (Fig. 5, for example).

X 7. Claims 1, 2, 4-8 and 12-15, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi, Satterfield and Savage.

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Re claims 6, 8 and 15, although the armrest of the Jacuzzi bath does not include an air bubbler/jet, as claimed, attention is directed to the Satterfield reference which discloses an analogous bath which further includes an air bubbler/jet 32. Therefore, in consideration of Satterfield, it would have been obvious to one of ordinary skill in the art to associate an air bubbler/jet with the Jacuzzi bath in order to facilitate bathing. Re claims 13 and 14, Satterfield teaches providing the air bubbler/jet in bottom portions (rather than side portions) of the bath to facilitate bubbling. See column 1, line 35 through column 3, line 5, of Satterfield. Furthermore, the Savage reference is cited as evidence that one skilled in the bath art would consider arranging an air bubbler/jet wherever therapeutic action is desired.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi, Carrier and Jones.

The Jacuzzi bath further comprises a seat 13 (between 21 and 21); a wall 9 including an orifice (receiving 31); and a water jet 31. Therefore, Jacuzzi teaches all claimed elements except for the provision of a plurality of orifices and a headrest.

Although the wall of the Jacuzzi bath does not include a plurality of orifices, as claimed, provision of such would have

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been obvious to one of ordinary skill in the art to as merely duplicating the teaching found in Jacuzzi of providing an orifice and water jet wherever therapeutic action is desired.

Although the wall of the Jacuzzi bath does not include a headrest, as claimed, attention is directed to the Jones reference which discloses an analogous bath which further includes a wall (at 24) having a headrest 12. Therefore, in consideration of Jones, it would have been obvious to one of ordinary skill in the art to associate a headrest with the Jacuzzi bath in order to support a bather's head.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacuzzi, Carrier and Jones as applied to claim 9 above, and further in view of Satterfield and Savage.

Re claim 10, to associate air orifices with the Jacuzzi bath would have been obvious to one of ordinary skill in the art in consideration of Satterfield and Savage analogous to the discussion supra.

Re claim 11, although the Jacuzzi bath does not include a second seat, as claimed, attention is again directed to Satterfield which discloses a second seat 22,24,etc. Therefore, in consideration of Satterfield, it would have been obvious to one of ordinary skill in the art to associate a second seat with the Jacuzzi bath in order to enable use by multiple bathers.

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10. Applicant's arguments with respect to claims 1, 7 and 15 have been considered but are moot in view of the new ground(s) of rejection.

11. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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12. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', is positioned above the printed name.

Robert M. Fetsuga  
Primary Examiner  
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